WESTERN ENERGY ALLIANCE

January 24, 2018

Doug Benevento
Regional Administrator
Environmental Protection Agency Region 8
1595 Wynkoop St.
Denver, CO 80202

Dear Administrator Benevento:

Western Energy Alliance appreciates EPA's efforts to provide a streamlined permitting mechanism for oil and natural gas development in the Uinta Basin to ensure responsible development can continue throughout the nonattainment designation process. In light of EPA's intent to develop a Federal Implementation Plan (FIP) for the Uintah & Ouray (U&O) Reservation that mirrors new source requirements developed by the State of Utah, we wish to provide some context on how state rules are applied in Utah and potential conflicts that may arise if those requirements are transposed to a FIP.

The State of Utah recently completed a rulemaking for a Permit by Rule (PBR) that establishes control standards for new sources statewide. Western Energy Alliance provided detailed technical input on the PBR, which outlined some concerns with its technical and economic feasibility. While many of our concerns were largely addressed in the final rule, it is important to recognize how the State of Utah intends to apply the PBR, particularly to existing sources. First, the PBR takes Best Available Control Technology (BACT) standards for new sources and applies them going forward on newly constructed or modified facilities. Facilities with existing Approval Orders (AOs) or exempt small sources below 5 tons per year (tpy) VOC emissions are not subject to control requirements under the final PBR. This is a critically important distinction to our members, because the economics of existing source controls are vastly different from new source controls.

Development on the U&O Reservation has not historically required operators to obtain the same AOs that have been required on state lands. Any EPA efforts to apply PBR-level controls on the U&O Reservation ought to be sensitive to the fact that PBR was not developed with existing source applicability in mind. The Alliance is sensitive to the air quality challenges facing the Uinta Basin and is committed to addressing air quality using sound science and cost-effective solutions. Any efforts to address existing sources should follow the process prescribed by the Clean Air Act for nonattainment areas and ensure that controls are imposed in the most cost-effective manner possible.

Simply applying PBR control requirements on the U&O Reservation may not satisfy federal BACT guidance. For example, the PBR combines emissions from dehydrators and tanks to

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set a control threshold at 4 tons per year of volatile organic compounds. However, application of BACT is set forth under EPA regulation (40 C.F.R Part 52) and establishes that a source "shall apply best available control technology for each regulated NSR pollutant that it would have the potential to emit in significant amounts" and should be applied to each "emissions unit." 40 CFR 52.21(b)(12). EPA established policy is that such reviews of what constitutes an "emissions unit" for BACT should default to the methods in which NSPS and NESHAP establish an individual "affected facility" (*i.e.* separately as storage vessels, pneumatic controllers, pneumatic pumps, glycol dehydrators, and so on.) NSPS OOOO/a and NESHAP HH controls are not based on the emissions totals of a combination of more than one "emission unit" or "affected facility" as the State of Utah did in the PBR by combining the dehydration unit and the storage vessel emissions. For these reasons, the Alliance believes the State's combined emissions method in R 307-507-4 is inconsistent with EPA BACT guidance and federal law.

The State of Utah's BACT analysis for dehydrators illustrates why simply mirroring state requirements in Indian country is not necessarily appropriate. We do, however, want to underscore the importance of uninterrupted access to a streamlined permitting mechanism for the Uinta Basin. One approach for addressing the potential gap in the Uinta Basin permitting program is to pursue rulemaking to allow the national Indian Country Minor New Source Review FIP to apply in areas transitioning to nonattainment until a nonattainment SIP or FIP can be put in place. The national FIP imposes broad control requirements on new and modified facilities that have already been analyzed for their cost-effectiveness and emission reductions. Allowing the national FIP to remain in effect would allow EPA to redirect its resources towards dealing with the nonattainment issue in the Uinta Basin directly through SIP approval and FIP development, rather than focusing on a time-consuming rulemaking that merely serves as a stop-gap permitting mechanism. Another approach would be to consider delaying the effective date of a nonattainment designation until a reservation-specific FIP is final and effective. Whatever path EPA chooses to follow, the most important outcome for industry is to maintain access to a streamlined permitting mechanism so that responsible development can continue.

We appreciate the opportunity to provide EPA context on the Utah PBR. We are committed to working with EPA to address air quality in the Uinta Basin through science-based, cost-effective steps to improve emissions. We would welcome the opportunity to meet with staff to further discuss solutions to the coming lapse in available permitting mechanisms.

Sincerely,

Ryan Streams
Manager of Regulatory Affairs